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RUEATRS/TREASURY DEPT WASHDC  
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DEPT FOR EAP/J AND EEB/OIA  
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USDOC FOR 4410/ITA/MAC/OJ  
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TAGS: EINV ENRG PGOV OECD JA  
SUBJECT: TCI HOISTS THE WHITE FLAG IN J-POWER CASE

REF: A. TOKYO 1337  
1B. TOKYO 1550

Classified By: CDA Robert F. Cekuta, Reason 1.4 (b)(d)

11. (SBU) The Children's Investment Master Fund (TCI), a U.K. hedge fund, announced July 14 it will not contest the GOJ's May 13 order directing it to halt plans to boost its stake in electricity wholesaler Electric Power Development Company (J-Power) (Ref A). The fund's decision ends a highly contentious eight-month battle, which for many institutional investors had become a test case of the continued openness of Japan's investment climate.

12. (U) In a July 14 statement, TCI again criticized the lack of transparency in the GOJ's decision making process and said it "wishes to make clear that it does not agree with the conclusion or the logic" of the GOJ's decision. However, the statement continued, "it is not in the interests of any of the parties to this case to pursue an appeal" in the courts, which is TCI's only remaining option to overturn the government's decision.

13. (SBU) In addition to the time and expense of a legal challenge, TCI's decision to give up the fight reflects a failure to gain support from fellow investors for its shareholder proposals at J-Power's June 26 annual general shareholders meeting. TCI had called for J-Power management to raise the firm's annual dividend and to set a limit on the amount of cross-shareholdings in other listed firms (Ref B).

14. (C) Comment: TCI's statement is seen in Tokyo as largely anti-climatic. The likelihood Japan's courts would have overturned the GOJ's order was always a long shot. Observers argue the outcome is unlikely to have a significant impact on Japan's future inward investment flows, despite the substantial international attention the case generated. Still, while the GOJ, and especially METI, sought to argue the TCI case was unique and involved sensitive Japanese national security concerns, it nonetheless has given foreign and domestic observers reason to question the depth of the GOJ's commitment to expanding foreign investment in Japan.

